

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

LEE WOODS,

Plaintiff,

9:20-cv-00570 (BKS/CFH)

v.

ANTHONY ANNUCCI, Acting Commissioner,
Department of Corrections and Community Supervision,
JAMES O'GORMAN, Deputy Commissioner for
Correctional Facilities, JOSEPH BELLNIER, former
DOCCS Deputy Commissioner for Correctional Facilities,
CHRISTOPHER MILLER, Superintendent of Great
Meadow, DAVID ROCK, former Superintendent of Great
Meadow, DALE ARTUS, Superintendent of Attica,
JOSEPH NOETH, former Acting Superintendent of Attica,
RAYMOND COVENY, Superintendent of Elmira,
DONALD VENETTOZZI, Director of DOCCS Special
Housing and Inmate Disciplinary Program, ALBERT
PRACK, former Director of DOCCS Special Housing and
Inmate Disciplinary Program, JOHN OR JANE DOES 1–5,
members of the DOCCS SHMC at Great Meadow, JOHN
OR JANE DOES 6–10, members of the DOCCS SHMC at
Attica, and JOHN OR JANE DOES 11–15, members of the
DOCCS SHMC at Elmira,

Defendants.

Appearances:

For Plaintiff:

James D. Arden
Caitlin N. Matheny
Cassandra Liu
Sidley Austin LLP
787 Seventh Avenue
New York, NY 10019

For Defendants Annucci, O’Gorman, Bellnier, Miller, Rock, Artus, Noeth, Coveny, Venetozzi, and Prack:

Letitia James

Attorney General of the State of New York

Andrew W. Koster

Assistant Attorney General, of Counsel

The Capitol

Albany, NY 12224

Hon. Brenda K. Sannes, United States District Judge:

ORDER ON DEFENDANTS’ MOTION TO DISMISS

For the reasons discussed at the September 13, 2021 telephone conference, it is hereby

ORDERED that Defendants’ motion to dismiss (Dkt. No. 78) is **GRANTED** in part and

DENIED in part, as follows:

Defendants’ motion to dismiss the claims against Defendants Prack, Rock, and Artus based on the statute of limitations is **DENIED** without prejudice because the Court does not have enough information before it to take judicial notice of the employment dates of these Defendants under Fed. R. Evid. 201(b); the parties have not addressed whether the statute of limitations was tolled while Plaintiff exhausted his administrative remedies, *Gonzalez v. Hasty*, 651 F.3d 318, 323–24 (2d Cir. 2011); and Defendants have not addressed the applicability of the continuing violation doctrine, *Lucente v. County of Suffolk*, 980 F.3d 284, 310 (2d Cir. 2020);

Defendants’ motion to dismiss the § 1983 claims against Defendant Annucci in his individual capacity on the ground that the First Amended Complaint does not adequately allege his personal involvement in the alleged constitutional violations is **GRANTED**, and the claims against Annucci in his individual capacity are dismissed;

Defendants’ motion to dismiss Plaintiff’s Rehabilitation Act and Americans with Disabilities Act claims is **GRANTED**, and those claims are dismissed; and

Defendants’ motion to dismiss is otherwise **DENIED**.

IT IS SO ORDERED.

Dated: September 13, 2021
Syracuse, New York

Brenda K. Sannes
Brenda K. Sannes
U.S. District Judge